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09/839,065	04/20/2001	Ting Tina Ye	1001.1471101	2367
28075	7590	09/03/2008		
CROMPTON, SEAGER & TUFTE, LLC			EXAMINER	
1221 NICOLLET AVENUE			DESANTO, MATTHEW F	
SUITE 800				
MINNEAPOLIS, MN 55403-2420				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09839065	4/20/01	YE ET AL.	1001.1471101

## EXAMINER

MATTHEW F. DESANTO

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3763	20080902

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Commissioner for Patents

The reply brief filed 06/23/2008 has been noted.

The examiner has read through the reply brief and disagrees with the interpretation of the prior art and the claim language. The major difference in the interpretation of the claimed invention is the limitation "shapeable by thermoforming techniques". According to the MPEP section 2111.01 Plain Meaning paragraph I, the examiner should use the broadest reasonable interpretation of the claims and not read limitations from the specification into the claims, since this form of interpretation is done when examining the claim language after issuing the application. Therefore the examiner interprets "shapeable" as being able to be shaped and "thermoforming technique" as the process that can be used to shape the catheter, but is given little patentable weight since "thermoforming technique" is a process in an apparatus claim, and the examiner's burden is to find the finished product unless the applicant provides evidence that the process leads to a different product, which in this case the applicant has failed to do. The examiner cited Samson et al. which discloses the claimed structure in the previous office actions (1/28/04, 8/12/03). The examiner also pointed out that Samson et al. even discloses the same thermoforming technique as heat shrinking and steam the catheter.

In the reply brief on page 3, the last paragraph, the applicant gives a definition of shapeable from the specification, but this interpretation of the claimed language is improper since reading limitations from the specification into the claim is not appropriate as discussed in the MPEP sections 2111.01 and the broadest reasonable interpretation of the terms must be given, which the examiner has done above and in the last examiner's answer and is the reason for the different interpretation of the claimed invention.

/Matthew F DeSanto/  
Primary Examiner, Art Unit 3763